

Senate Bill No. 257

Passed the Senate August 30, 2006

Secretary of the Senate

Passed the Assembly August 23, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 50909 of, to add Section 51050.1 to, and to add Chapter 6.3 (commencing with Section 51312) to Part 3 of Division 31 of, the Health and Safety Code, relating to housing and community development.

LEGISLATIVE COUNSEL'S DIGEST

SB 257, Chesbro. Special needs housing.

Existing law creates the California Housing Finance Fund in the State Treasury, and authorizes the transfer of construction loan funds to the construction lender or to the contractor as necessary to meet draws for progress payments pursuant to rules and regulations of the California Housing Finance Agency. Existing law prescribes the powers and duties of the agency with regard to providing loans and subsidizing housing for persons and families of low or moderate income and authorizes the agency to utilize federal subsidies available to provide housing for those families and persons.

This bill would additionally authorize the agency to make loans to finance affordable housing, including residential structures, housing developments, multifamily rental housing, special needs housing, as defined, and other forms of housing permitted by provisions regulating housing and community development. The bill would authorize the agency, in addition to any other power conferred pursuant to specified laws governing housing and community development, to issue revenue bonds, in accordance with specified requirements, for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of special needs housing, as defined.

Existing law requires the agency to be administered by a board of directors, and requires the board to determine the compensation for the executive director of the agency. Existing law prohibits the compensation for the executive director to exceed the salary of the Secretary of Business, Transportation and Housing.

This bill would also require the board to determine the compensation for all key exempt management, as prescribed, and

would remove the limitation on the executive director's compensation as it relates to the salary of the Secretary of Business, Transportation and Housing. This bill would require the board to establish the compensation in the agency's annual budget, and would require the Department of Personnel Administration to review the board's methodology in establishing the compensation.

This bill would require the California Housing Finance Agency to present a plan to the Legislature for the development, acquisition, construction, and rehabilitation of supportive housing. The bill would require the Legislative Analyst's Office to comment on the plan.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) There is a shortage of housing and related supportive services for persons with special needs, including persons with mental illnesses. These persons are at substantial risk of homelessness. Financing special needs housing is particularly difficult because this housing will not support large amounts of conventional long-term debt. The California Housing Finance Agency (CalHFA) has substantial expertise and experience in leveraging conventional financing with other secondary sources of financing, to facilitate the development of affordable housing.

(b) Financing special needs housing, as well as efficiently leveraging other funds available for this purpose, is complex and involves significant financial risks. CalHFA has the management, financial, and legal expertise to structure the transactions and to manage these risks over a long term. The ability of CalHFA to effectively and efficiently provide this special needs financing requires amendments to the agency's statutes, including clear authority for the agency to issue bonds to raise capital for tax-exempt and taxable loans to finance special needs projects.

(c) The provision of additional financing through CalHFA provides significant advantages to the state. CalHFA is financially independent from the State of California. Its bond obligations are not a debt or liability of the state, nor does it require a pledge of the full faith and credit of the state. CalHFA

is a self-supporting entity, and raises all of its capital from private investors through the issuance of bonds.

(d) CalHFA's high quality credit rating depends in significant part on ratings agency and investor confidence in the ability of the management of the agency. Credit ratings agencies evaluate the expertise and effectiveness of CalHFA management in connection with the agency's issuer credit rating. CalHFA's current issuer rating specifically recognizes that CalHFA has experienced significant difficulty in attracting and retaining key management personnel as a result of compensation that is significantly less than is offered by other comparable housing finance agencies. The continued ability of the agency to meet its duties to bondholders, to maintain its high credit rating, and to manage the risk of complex real estate finance transactions such as those contemplated in this act, depends substantially on the ability of the agency to attract and retain key executive management over the long term.

(e) CalHFA must operate as a professional, self-supporting financial institution. Each fiscal year, the CalHFA Board of Directors (board) of the agency enacts a business plan, including an operating budget containing salaries. This act enables the board to attract and retain key personnel by clarifying the board's authority to establish compensation for key executive and management positions. This compensation will be competitive with that of other comparable state and local housing finance entities, according to salary survey methodology reviewed by the Department of Personnel Administration.

SEC. 2. Section 50909 of the Health and Safety Code is amended to read:

50909. (a) Notwithstanding Sections 19816 and 19825 of the Government Code, the compensation of key exempt management, including the executive director, the chief deputy director, the general counsel, the director of financing, the director of homeownership programs, the director of multifamily programs, the director of insurance and the financial risk management director shall be established by the board in the agency's annual budget, in amounts which are reasonably necessary, in the discretion of the board, to attract and hold a person of superior qualifications.

(b) (1) To determine the compensation for the positions described in this section, the agency shall cause to be conducted, through the use of independent outside advisors, salary surveys of both of the following:

(A) Other state and local housing finance agencies that are most comparable to CalHFA.

(B) Other relevant labor pools.

(2) The salaries so set by the board shall not exceed the highest comparable salary for a position of that type, as determined by the survey.

(c) The Department of Personnel Administration shall review the methodology used in these salary surveys.

(d) Members of the board shall not receive a salary but shall be entitled to a per diem allowance of one hundred dollars (\$100) for each day's attendance at a meeting of the board or a meeting of a committee of the board, not to exceed three hundred dollars (\$300) in any month, and reimbursement for expenses incurred in the performance of their duties under this part, including travel and other necessary expenses.

SEC. 3. Section 51050.1 is added to the Health and Safety Code, to read:

51050.1. The agency may make loans to finance affordable housing, including residential structures, housing developments, multifamily rental housing, special needs housing, and other forms of housing permitted by this part.

SEC. 4. Chapter 6.3 (commencing with Section 51312) is added to Part 3 of Division 31 of the Health and Safety Code, to read:

CHAPTER 6.3. SPECIAL NEEDS HOUSING

51312. (a) The primary purpose of this chapter is to provide an additional method of financing special needs housing.

(b) (1) For purposes of this chapter, "special needs housing" means any housing, including supportive housing, intended to benefit, in whole or in part, persons identified as having special needs relating to any of the following:

(A) Mental health.

(B) Physical disabilities.

(C) Developmental disabilities, including, but not limited to, mental retardation, cerebral palsy, epilepsy, and autism.

(D) The risk of homelessness.

(2) Special needs housing shall also mean housing intended to meet the housing needs of persons eligible for mental health services funded in whole or in part by the Mental Health Services Fund, created by Section 5890 of the Welfare and Institutions Code.

51313. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of this state and for their health and welfare. Therefore, any bonds issued by the agency, pursuant to this chapter, their transfer, and the income therefrom shall at all times be free from taxation by the state or any political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

51314. Subject only to the limitations of this chapter, the agency may, in addition to any other power conferred by this part, issue revenue bonds as provided in Chapter 7 (commencing with Section 51350) for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of special needs housing, and for the provision of capital improvements in connection with, and determined necessary to, such housing.

51315. Subject only to the limitations prescribed in this chapter, the agency, in addition to any other power conferred by this part with respect to housing, may make or undertake commitments to make loans to finance the acquisition, construction, rehabilitation, refinancing, or development of special needs housing. For this purpose, the agency may enter into regulatory contracts and other agreements with the owners or operators of that housing to ensure compliance with this chapter.

51316. Subject only to the limitations prescribed in this chapter, the agency, in addition to any other power conferred by this part, may purchase, or undertake, directly or indirectly through lending institutions, commitments to purchase, construction loans, mortgage loans, or other types of loans originated in accordance with a financing agreement with the agency to finance the acquisition, construction, rehabilitation, refinancing, or development of special needs housing, and for the

provision of capital improvements in connection with, and determined necessary to, such housing.

51317. For the purposes of this chapter, the agency shall have the power to issue its bonds to defray, in whole or in part, the costs of studies and surveys, insurance premiums, underwriting fees, legal, accounting and marketing services incurred in connection with the issuance and sale of bonds, including bond and operating reserve accounts, trustee, custodian, and rating agency fees, and such other costs as are reasonably related to the foregoing.

51318. This chapter constitutes a complete, additional, and alternative method to issue bonds to finance the costs of special needs housing.

SEC. 5. (a) The California Housing Finance Agency (CalHFA), in consultation with the Department of Mental Health (DMH) and the Department of Housing and Community Development (DHCD), and other agencies and interested parties, shall prepare and present to the Legislature a plan for the development, acquisition, construction, and rehabilitation of supportive housing projects using up to seventy-five million dollars (\$75,000,000) annually in funding from the Mental Health Services Act (MHSA), as provided under the Governor's Executive Order S-07-06. The plan shall include, but not be limited to, the following components:

(1) How funds will be distributed, including any criteria to evaluate projects.

(2) How funding for the supportive housing program will be administered and the level of administrative costs.

(3) How effective coordination among CalHFA, DMH, and DHCD will be assured for the duration of the program.

(4) The projected timetable for obtaining additional supportive housing units, and an explanation as to how state agencies will regularly monitor the activities of the program on an ongoing basis to ensure that the goal of establishing 10,000 additional supportive housing units is being met.

(5) How state agencies will regularly monitor and audit expenditures on an ongoing basis to ensure that the funding for the program is spent in a cost-effective manner.

(6) How state agencies will ensure that the design of any housing developed under the program meets the needs for special needs programs provided to its inhabitants.

(b) A copy of the plan shall be submitted to the Chair of the Joint Legislative Budget Committee, the chairs of the fiscal, housing, and health committees of each house of the Legislature, and the Legislative Analyst's Office.

(c) The Legislative Analyst's Office shall review and, to the extent it determines is warranted, comment on the plan. Any Legislative Analyst's Office comments shall be submitted to the parties specified in subdivision (b) and shall include, but shall not be limited to, the following aspects of the plan:

(1) Whether the plan is complete and consistent with the requirements of this section.

(2) Whether the plan for the development of 10,000 additional units of supportive housing is reasonable.

(d) The Executive Director of CalHFA is encouraged not to make a funding commitment for any supportive housing project proposed under the executive order prior to 30 days after the submission of the plan pursuant to subdivision (b), or any lesser time that the Chair of the Joint Legislative Budget Committee may determine.

Approved _____, 2006

Governor